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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,208	01/14/2004	Joseph W. Coburn JR.	15254C	3568

7590 07/20/2005

R. GALE RHODES, JR.  
Suite 100  
595 Shrewsbury Avenue  
Shrewsbury, NJ 07702

EXAMINER
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NORDMEYER, PATRICIA L

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/757,208

Applicant(s)

COBURN, JOSEPH W.

Examiner

Patricia L. Nordmeyer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Repeated Rejections***

1. The 35 U.S.C. 102(e) rejection of claims 1, 2, 6 and 8 as anticipated by Bonkowski et al. in the paper dated May 2, 2005 is repeated for the reasons of record as the arguments presented by the Applicant in the paper dated May 24, 2005 are not found persuasive.
2. The 35 U.S.C. 103 rejection of claims 3 – 5, 7 and 9 – 12 over Bonkowski et al. in the paper dated May 2, 2005 is repeated for the reasons of record as the arguments presented by the Applicant in the paper dated May 24, 2005 are not found persuasive.

### ***Response to Arguments***

3. Applicant's arguments filed May 24, 2005 have been fully considered but they are not persuasive.

In response to Applicant's argument that the color effect image provided by Applicant's claimed optically decorative product does not shift in color as does the article of the prior art nor does Bonkowski et al. have the claimed transparent colored polymeric material, Bonkowski et al. does disclose a transparent colored polymeric material made from a molded material that includes a variety of plastics that are light transmissive (Column 4, lines 15 – 16 and 41 – 54; and Figure 1A, #14). While the Applicant's claimed optically decorative product does not shift in color as does the article, the language of the prior art states that a color effect image is formed

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that has an appearance different than the transparent polymeric material. The coloring shifting article of Bonkowski et al. has an image that is different than the transparent polymeric material, and thereby meets the claim limitations of the optically decorative product.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the transparent polymeric material of a single color) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 2 states that the transparent color effect is just a colored polymeric material. It does not state that the layer is a single color.

In response to Applicant's argument that the structural elements recited in claim 6 are not "clearly and unequivocally" disclosed by Bonkowski et al., Bonkowski et al. clearly discloses that it is known in the art to form an iridescent color effect image (Column 1, lines 30 – 36) through diffraction in an optically decorative product.

In response to Applicant's argument that Bonkowski et al. does not teach a layer of metallic material provided on the ridges and grooves, Bonkowski et al. clearly discloses a layer of metallic material provided on the ridges and grooves (Figure 2B, #18; and Column 5, lines 3 – 14). The layer of metallic material is coated on the transparent colored polymeric material of light transmissive molded plastics.

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In response to Applicant's argument that the sputtering or physical vapor deposition does not adhere adjacent layers together, it is unclear what the Applicant is arguing here. Bonkowski et al. disclose the use of an adhesive layer to attach an article to substrate (Column 9, line 63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an adhesive material to place the layers together in the desired order instead of using the method of sputtering or physical vapor deposition (Column 3, lines 65 – 67; Column 5, lines 15 – 17) which is also disclosed by Bonkowski et al., since it has been held that omission of an element and its function in combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571) 272-1496. The examiner can normally be reached on Mon.-Thurs. from 7:00-4:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patricia L. Nordmeyer  
Examiner  
Art Unit 1772

*pln*  
pln

*Harold Pyon*  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

*2/18/05*